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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,385	07/25/2001	Michihiro Uchishiba	500.40386X00	5085
20457	7590	10/04/2004	EXAMINER	
ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-9889			TANG, KENNETH	
		ART UNIT	PAPER NUMBER	
			2127	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/911,385	UCHISHIBA ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Kenneth Tang	2127

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 July 2001.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/25/01.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. Claims 1-6 are presented for examination.

### ***Claim Rejections - 35 USC § 112***

2. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:

- a. In claim 1, "reserve resource" (line 2) is indefinite because it is not made explicitly clear in the claim language how this reserve resource differs from a (regular) resource.
- b. In claim 1, "assignment or collection of the resource" is indefinite because it is not made explicitly clear in the claim language whether the assignment and collection refer to the same thing. It is not made clear in the claim language the difference. In addition, it is not made explicitly clear whether or not the reserve resource in line 14 refers to the same resource that is assigning and collecting (line 10). Furthermore, it is unclear if there is only one resource or more than one (regular resource, reserve resource,..).
- c. Claim 1 recites the limitation "the resource" in lines 7, 8, and 10. There is insufficient antecedent basis for this limitation in the claim. It is unclear if this refers to the reserve resource in line 2 or if a new resource is being introduced.
- d. Claims 2 and 6 are rejected for the same indefinite reasons as stated above in the rejection of claim 1.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**3. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Eilert et al. (hereinafter Eilert) (US 6,587,938 B1).**

4. As to claim 1, Eilert teaches a method for automatically imparting a reserve resource to a logical partition in a logical partitioned computer system in which one or more logical partitions are provided in one physical computer, and an operating systems is operated in each of the logical partitions (*col. 4, lines 18-37*), comprising the steps of:

monitoring an amount of the resource being used in an amount of the resource being assigned to each of the logical partitions, and requesting assignment or collection of the resource to said physical computer on the basis of a result of monitoring (*col. 25, lines 60-62, col. 18, lines 45-50, col. 4, lines 18-37*); and

causing said physical computer upon receipt of the request to assign the reserve resource to the logical partition in the case of the assignment request, and to set the resource being

assigned to the logical partition as the reserve resource in the case of the collection request (*col. 4, lines 18-37, col. 17, lines 21-22, col. 18, lines 45-50*).

5. As to claim 2, it is rejected for the same reasons as stated in the rejection of claim 1. In addition, Eilert teaches a means to provide adding or separating (adjusting) of the resource being monitored a the partitions (*col. 8, lines 53-67, col. 9, lines 21-40, and Abstract, etc.*).

6. As to claim 3, it is rejected for the same reasons as stated in the rejections of claim 2.

7. As to claim 5, it is rejected for the same reasons as stated in the rejections of claim 2.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eilert et al. (hereinafter Eilert) (US 6,587,938 B1).**

9. As to claim 4, it is rejected for the same reasons as stated in the rejection of claim 1. However, Eilert fails to explicitly teach having a data table for the logical partitions. "Official

"Notice" is taken that both the concept and advantages of providing that data table for the logical partitions is well known and expected in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include data table for the logical partitions to the existing system of Eilert because this increases the organization of the system by having a structure to hold and access the data.

10. As to claim 6, it is rejected for the same reasons as stated in the rejections of claims 1 and 4.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. Greenspan et al. (US 5,893,157) teaches managing resources that are allocated in logical partitions.
- b. Maergner et al. (US 2003/0065835 A1) also teaches managing resources that are allocated in logical partitions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (571) 272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kt  
9/25/04



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